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Legislative Notice

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H.R. 434 — African Growth and Opportunity Act

Passed by the House of Representatives on July 16, 1999, by a vote of 234 to 163. Received in the Senate July 19, 1999, read twice and placed on the Calendar under General Orders. H. Rept. 106-19.

NOTEWORTHY

- It is expected that the Majority Leader will move to proceed to H.R. 434, the "African Growth and Opportunity Act" as early as today.
- At the beginning of consideration of H.R. 434, Finance Committee Chairman Roth will propose to strike the House-passed language and adopt a manager's amendment incorporating the provisions of four trade bills reported by the Committee. These four bills (which will be the subject of this *Legislative Notice*, rather than the House-passed provisions) are:
 - The **Trade Adjustment Assistance Reauthorization Act** (S. 1386, S. Rept. 106-119, Calendar No. 211, Title IV in the manager's amendment), placed on the Calendar on July 16, 1999;
 - The **African Growth and Opportunity Act** (S. 1387, S. Rept. 106-112, Calendar No. 212, Title I in the manager's amendment), placed on the Calendar on July 16, 1999;
 - The **Generalized System of Preferences Extension Act** (S. 1388, S. Rept. 106-137, Calendar No. 213, Title III in the manager's amendment), placed on the Calendar on July 16, 1999; and
 - The **United States-Caribbean Basin Trade Enhancement Act** (S. 1389, S. Rept. 106-160, Calendar No. 214, Title II in the manager's amendment), placed on the Calendar on July 16, 1999.
- Unlike the **Trade and Tariff Act** (S. 2400, S. Rept. 105-280) reported by the Committee in the 105th Congress but not enacted, the Senate manager's amendment to H.R. 434 does *not* include renewal of the President's authority to proclaim tariffs resulting from negotiation of reciprocal trade agreements and of congressional expedited procedures for implementing such procedures in U.S. law (commonly known as "fast track" procedures).

HIGHLIGHTS

The major points of the manager's amendment incorporating the provisions of S. 1386 through S. 1389 are as follows:

- The **Trade Adjustment Assistance** program (TAA) — which provided for assistance for workers and firms adversely impacted by import competition — was last reauthorized in P.L. 105-277, the omnibus appropriations bill passed at the end of the 105th Congress. That reauthorization expired on June 30, 1999. This bill will reauthorize the program through September 30, 2001.
- The **African Growth and Opportunity Act** has four primary components:
 - Enhanced benefits under the Generalized System of Preferences program (see below) for eligible sub-Saharan African (SSA) countries;
 - Quota-free access to the United States for apparel products produced in eligible SSA countries using U.S. fabric;
 - Creation of a United States-SSA Trade and Economic Cooperation Forum; and
 - A directive for the President to begin plans for implementing a United States-SSA free trade area.
- The **Generalized System of Preferences (GSP)** — which grants authority to the President to provide duty-free treatment to imports of eligible articles from designated beneficiary developing countries, subject to certain conditions and limitations — was also last extended in the final omnibus appropriations measure of the 105th Congress and expired on June 30, 1999. This legislation will extend the program until June 30, 2004.
- The **U.S.-Caribbean Basin Trade Enhancement Act** would expand the 1983 Caribbean Basin Economic Recovery Act (CBERA) by providing for additional tariff preferences on a number of products not previously covered by the program. Those benefits are conditioned on the eligible beneficiary countries' trade policies, their participation and cooperation in the Free Trade Agreement of the Americas, and other factors. The additional benefits would be in effect through December 31, 2004.

BACKGROUND

The following is a short background explanation for each component of the Senate manager's amendment, by Committee-reported bill:

Trade Adjustment Assistance (S. 1386)

The authorizations for the three existing Trade Adjustment Assistance (TAA) programs expired on June 30, 1999. These programs were most recently authorized in Public Law 105-277, the Omnibus Consolidated and Emergency Appropriations Act, 1999, which was enacted on October 21, 1998. Prior to that reauthorization, the program's authorizations had expired on September 30, 1998. The Finance Committee passed legislation that would reauthorize the program on two occasions in the 105th Congress, but neither was enacted. The first was included in S. 1269, the Reciprocal Trade Agreements Act of 1997, which passed the Committee on October 1, 1998. The second was included in S. 2400, the Trade and Tariff Act of 1998, which passed the Committee on July 31, 1998.

African Growth and Opportunity (S. 1387)

Currently, trade between the United States and the sub-Saharan African (SSA) countries is relatively minor. In 1997, United States merchandise exports to the SSA countries amounted to less than 1 percent of total U.S. merchandise exports (\$6.2 billion), while imports from those countries totaled only 1.7 percent of U.S. merchandise imports (\$16.4 billion). The 48 SSA countries together constitute the 21st largest export market for the United States. The major export markets in SSA are South Africa and Nigeria, and the primary export sectors are transportation equipment, machinery, electronic products, agricultural products, and chemicals (together, these sectors accounted for 80 percent of exports to the region). The main import suppliers are Nigeria, Angola, South Africa, and Gabon. The primary import sectors are energy-related products and minerals and metals, which accounted for 69 percent and 14 percent, respectively, of all merchandise imports from the region in 1997.

The sub-Saharan countries are among the poorest and least developed in the world. According to World Bank data, the per capita GNP for the SSA countries declined at an annual rate of 1.1 percent during 1985-1995 to an average of \$490. Based on 1996 figures, 39 SSA countries are in the lowest income group of countries (per capita GNP of \$765 or less) and 5 are in the lower middle group (\$766 to \$3,035). The remaining four — Gabon, Mauritius, Seychelles, and South Africa — are in the upper-middle income group of countries (\$3,036 to \$9,385).

Most of the SSA countries are eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) program, though only 3 percent of imports under the program are from the SSA countries. Under the GSP program, developing countries are eligible to receive duty-free access to the U.S. market for certain specified products. U.S. imports from Sub-Saharan Africa under GSP totaled \$588.2 million in 1996, with imports from South Africa (\$429.3 million in 1996) accounting for most of this amount.

The political climate in several of the SSA countries has improved somewhat in recent years. Although there have been notable improvements, a number of SSA countries continue to suffer from significant instability. Further, over 30 countries, with assistance from the World Bank and the International Monetary Fund, have taken steps toward economic reform, including some liberalizing of exchange rates and prices, privatizing state-owned enterprises, instituting tighter disciplines over government expenditures, limiting subsidies and reducing barriers to trade and investment.

During the 105th Congress, both houses passed legislation with respect to trade policy toward SSA but none was enacted into law.

Generalized System of Preferences (S. 1388)

The Generalized System of Preferences (GSP), Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment to imports of eligible articles from designated beneficiary developing countries, subject to certain conditions and limitations. To qualify for GSP benefits, each beneficiary country is subject to various mandatory and discretionary eligibility criteria. Import-sensitive products are ineligible for GSP.

The President's authority to grant GSP benefits expired on June 30, 1999. The last extension of GSP was included in Public Law 105-277, the Omnibus Consolidated and Emergency Appropriations Act, 1999, which was enacted on October 21, 1998. Prior to that extension, the program had expired on September 30, 1998, and the extension was made retroactive to that date. The Finance Committee approved legislation that would have extended the program in the 105th Congress as a part of S. 2400, the Trade and Tariff Act of 1998, which passed the Committee on July 31, 1998, but was not enacted.

U.S.-Caribbean Basin Trade Enhancement (S. 1389)

Congress enacted the Caribbean Basin Economic Recovery Act (CBERA) in 1983 to respond to an economic crisis in Central America and the Caribbean. The principal U.S. response to that crisis under CBERA was a broad grant of unilateral tariff preferences to qualifying beneficiary countries.

In order to qualify, the beneficiary country had to request the opportunity to participate. The President then determined whether the country was eligible based on a variety of factors, including, among others, the country's commitment to afford the United States reciprocal market access, the country's participation (at the time) in the GATT, its willingness to accept subsidy disciplines, the extent to which the country afforded adequate intellectual property protection, and the extent to which the country's economic policies would contribute to the goals of the Caribbean Basin Initiative, or "CBI" as it is widely known.

The original grant of preferences was limited to a period of 12 years. It covered virtually all trade with the CBI countries with the exception of textiles and apparel, canned tuna, petroleum and petroleum products, certain watches and watch parts, handbags, luggage, flat goods such as wallets, change purses and key and eyeglass cases, work gloves, and leather wearing apparel. The current CBI beneficiaries include Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua,

Panama, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and the British Virgin Islands.

In 1990, Congress passed the Caribbean Basin Economic Recovery Expansion Act of 1990, the so-called "CBI II." That Act made the unilateral grant of preferences permanent. It also expanded some of the benefits otherwise available. CBI II permitted the President to proclaim a tariff reduction of 20 percent (but not more than 2.5 percent ad valorem on any article) in tariffs applicable to a subset of the previously excluded products — handbags, luggage, flat goods, work gloves, and leather wearing apparel. CBI II also allowed for duty-free treatment on articles, other than textiles and petroleum-based products, if made from U.S.-fabricated components.

In December 1992, the United States, Canada, and Mexico signed the North American Free Trade Agreement (NAFTA), which entered into force following Congressional approval on January 1, 1994. Among the commitments made by the United States to Mexico were the sharp reduction in duties and quantitative limits applicable to products ineligible for CBI treatment, including textiles and apparel. Although textile exports from the Caribbean remained strong, the onset of the NAFTA raised the concern that the preferences available under that agreement eventually would undermine investment in Central America and the Caribbean, particularly in textiles and apparel. That concern led to the formulation of various proposals for expanding the CBI still further to provide treatment equivalent to that provided to Mexico under the NAFTA for all products not previously eligible for CBI treatment. That concept is commonly referred to as "CBI parity."

During the 105th Congress, legislation was introduced in both houses to enhance U.S.-Caribbean trade, but none was enacted into law.

BILL PROVISIONS

The following is a description of the major provisions of the Senate manager's amendment, by Committee-reported bill:

Trade Adjustment Assistance (S. 1386)

Title II of the Trade Act of 1974, as amended, authorizes three trade adjustment assistance (TAA) programs for the purpose of providing assistance to individual workers and firms that are adversely affected by import competition. Those programs are:

- The general TAA program for workers, which provides training and income support for workers adversely affected by import competition;

- The TAA program for firms, which provides technical assistance to qualifying firms. (Both the TAA programs for workers and for firms were first established by the Trade Expansion Act of 1962); and
- The North American Free Trade Agreement (NAFTA) Transitional Adjustment Assistance (NAFTA-TAA) program for workers (established by the North American Free Trade Agreement Implementation Act of 1993), which provides training and income support for workers adversely affected by imports from or production shifts to Canada and/or Mexico.

The authorizations for all three programs expired on June 30, 1999. The TAA program for firms is also subject to annual appropriations. The manager's amendment reauthorizes each of the three TAA programs through September 30, 2001. It also caps the amount of money legally entitled for any fiscal year from October 1, 1998, to September 30, 2001, at \$30 million. This provision is effective on the date of enactment.

African Growth and Opportunity (S. 1387)

The manager's amendment sets forth a number of findings regarding the importance of economic and political development in the sub-Saharan African (SSA) countries, and the constructive role of increased trade and economic cooperation between the United States and the SSA countries. The amendment also contains a statement of policy on behalf of Congress supporting economic development within SSA and increased trade between that region and the United States.

The four primary SSA components are as follows:

- **Extension of Certain Trade Benefits to Sub-Saharan Africa:** The manager's amendment amends the Generalized System of Preferences (GSP) program, Title V of the Trade Act of 1974, by inserting a new section 506A. This new section authorizes the President to designate certain countries as beneficiary SSA countries eligible for certain enhanced benefits under the GSP program. In order to be designated as a beneficiary SSA country, and therefore eligible for the benefits set forth in this section, a country must satisfy three sets of criteria. First, the President must find that the SSA country has established or is making continual progress toward establishing a market-based economy, a democratic society, and certain economic policies. Second, the country must meet certain human rights standards. Third, the country must satisfy the eligibility criteria for the GSP program;
- **Treatment of Textile and Apparel Items:** The amendment provides beneficiary SSA countries (as designated under the new section 506A of the Trade Act of 1974, described above) with duty-free and quota-free access to the U.S. market for certain textiles and apparel products. In order to receive these benefits, a beneficiary SSA country must (1) adopt an effective and efficient visa system to guard against unlawful transshipment of textile and apparel products and the use of counterfeit documents; and (2) enact legislation or regulations that would permit the U.S. Customs Service to investigate thoroughly allegations of transshipment through such country. Also, the U.S. Customs Service is directed to provide technical assistance to the beneficiary SSA countries in

complying with these two requirements. The benefits for this provision apply only to the following textile and apparel items:

- Apparel articles assembled in beneficiary SSA countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States;
 - Apparel articles cut and assembled in beneficiary SSA countries from fabric wholly formed in the United States from yarns wholly formed in the United States, and assembled with thread formed in the United States; and
 - Handloomed, handmade, and folklore articles, that have been certified as such by the competent authority in the beneficiary SSA country;
- **U.S.-SSA Free Trade Forum:** The manager's amendment directs the President to establish a United States-SSA Trade and Economic Cooperation Forum with interested SSA countries. The purpose of this Forum is to foster close economic ties between the United States and SSA by encouraging meetings between private sector, governmental, and nongovernmental leaders to discuss expanding trade and investment relations between the United States and SSA. This provision also directs the President to meet with the heads of the governments of interested SSA countries for the purpose of discussing expanding trade and investment relations between the United States and the SSA countries; and
 - **Negotiations Toward Free-Trade Agreement:** The manager's amendment directs the President to examine, and report back to the Senate Committee on Finance and the House Committee on Ways and Means regarding the feasibility of negotiating a free trade agreement with interested SSA countries. If the President finds that such an agreement is feasible, then the President must provide a detailed plan for such negotiations that outlines the objectives, timing, potential benefits to the United States and SSA countries, and likely economic impact of any such agreement.

Generalized System of Preferences (S. 1388)

The manager's amendment extends the GSP program through June 30, 2004. This provision also provides for retroactive application for certain liquidations and reliquidations. Specifically, the Secretary of the Treasury is authorized to liquidate or reliquidate as free of duty any article that was entered after June 30, 1999, and before the date of enactment, and that would have been otherwise eligible for duty-free treatment under the GSP program if the entry had been made on June 30, 1999.

The amendment also provides that requests for liquidation or reliquidation under these provisions must be filed with the Customs Service within 180 days after the enactment of this Act. Such requests must contain sufficient information to enable the Customs Service to locate the entry or to reconstruct the entry if it cannot be located. These provisions are effective on the date of enactment.

U.S.-Caribbean Basin Trade Enhancement (S. 1389)

Like the CBI II enacted in 1990, the manager's amendment would expand the existing CBI by providing for additional tariff preferences on a number of products not previously covered by the program. Those benefits, however, are conditioned on the eligible beneficiary countries' trade policies, their participation and cooperation in the Free Trade Area of the Americas (FTAA) initiative, and other factors.

The amendment includes findings setting out the underlying rationale for expansion of the CBI program. The purpose is to provide opportunities that will enhance the beneficiary country's economic development and integration into the international trading system, while providing expanded export opportunities for U.S. goods as a result of the increased trade and economic growth that the enhanced CBI program is designed to foster. The amendment would include some or all of the product categories previously excluded from CBI tariff preferences, including certain textile and apparel products, footwear, canned tuna, petroleum and derivatives, watches and watch parts, and other products, as follows:

- **Textiles:** The manager's amendment extends immediate duty-free and quota-free treatment to:
 - Apparel articles assembled in an eligible CBI beneficiary country from U.S. fabrics wholly formed from U.S. yarns and cut in the United States that would enter the United States under the Harmonized Tariff Schedule of the United States (HTS) 9802.00.80 (a provision that otherwise allows the importer to pay duty solely on the value added abroad when U.S. components are shipped abroad for assembly);
 - Apparel articles entered under chapters 61 and 62 of the HTS where they would have qualified for HTS 9802.00.80 treatment but for the fact that the articles were subjected to certain types of washing and finishing;
 - Apparel articles cut and assembled in the eligible CBI country from United States fabric formed from U.S. yarn and sewn in the Caribbean with U.S. thread;
 - Handloomed, handmade, and folklore articles originating in the CBI beneficiary country;
 - Textile luggage assembled in an eligible CBI beneficiary country from U.S. fabrics wholly formed from U.S. yarns and cut in the United States that would enter the United States under HTS 9802.00.80; and
 - Textile luggage cut and assembled in an eligible CBI beneficiary country from U.S. fabric formed from U.S. yarn and sewn in such country with U.S. thread.

To ensure that the preferences made available under this provision do not lead to the transshipment of textile and apparel products from other countries where the goods would be subject to U.S. quotas, the proposal includes two provisions penalizing such actions. First, the proposal would penalize exporters found to have engaged in transshipment — all benefits under the program would be denied for a period of two years. Second, any

country failing to take action to prevent transshipment after a specific request for assistance in that regard from the President would have its exports reduced by three times the quantities found to have been transshipped. The proposal would also allow for the "snapback" of the tariff preferences in the case of surges in imports that could cause serious damage to the U.S. industry producing a like product in the United States; and

- **Other Products:** On all other products covered by the CBI provisions (footwear, canned tuna, petroleum and derivatives, watches and watch parts, and certain leather goods), the program would provide an immediate reduction in tariffs equivalent to the preference afforded imports of similar articles from Mexico under NAFTA.

Eligibility for the program is left to the discretion of the President, but the amendment provides very specific guidance as to the criteria the President should apply in making that determination. Beginning from the eligibility criteria set out in the original CBI, the manager's amendment adds trade factors such as the extent to which the beneficiary country fully implements the various Uruguay Round agreements and whether the beneficiary country affords adequate intellectual property protection. The proposal also adds nontrade criteria that reflect important U.S. initiatives in other areas. They include, among others, the extent to which the country has become a party to the Inter-American Convention Against Corruption and is or becomes a party to a convention regarding the extradition of its nationals, and the extent to which the prospective beneficiary supports the multilateral and regional objectives of the United States regarding the introduction of transparent bidding procedures on public procurement contracts. These CBI provisions would provide the specified additional benefits from October 1, 2000, through December 31, 2004, or the date on which a Free Trade Agreement of the Americas enters into force, whichever is earlier.

ADMINISTRATION POSITION

No Statement of Administration Policy on the manager's amendment is available, but the Committee on Finance understands that the Administration would strongly support its enactment.

COST

The following is a summary of the estimated costs (all of which are fully offset) of the Senate manager's amendment, by Committee-reported bill:

Trade Adjustment Assistance (S. 1386)

Based on estimates prepared by the Congressional Budget Office (CBO), the Finance Committee estimates that the TAA provisions of the manager's amendment would result in outlays of \$61 million over five years (FY 2000-2004). (For a detailed discussion, see S. Rept. 106-119, pages 6-11.)

African Growth and Opportunity (S. 1387)

Based on estimates prepared by CBO, the Finance Committee estimates that the African Growth and Opportunity provisions of the manager's amendment would result in lost revenues of \$44 million over five years (FY 2000-2004) due to tariff reductions. (For a detailed discussion, see S. Rept. 106-112, pages 11-16.)

Generalized System of Preferences (S. 1388)

Based on estimates prepared by CBO, the Finance Committee estimates that the GSP provisions of the manager's amendment would result in lost revenues of \$1.877 billion over five years (FY 2000-2004) due to tariff reductions. (For a detailed discussion, see S. Rept. 106-137, pages 6-11.)

U.S.-Caribbean Basin Trade Enhancement (S. 1389)

Based on estimates prepared by CBO, the Finance Committee estimates that the U.S.-Caribbean Trade Enhancement provisions of the manager's amendment would result in lost revenues of \$1.187 billion over five years (FY 2000-2004) due to tariff reductions. (For a detailed discussion, see S. Rept. 106-160, pages 9-15.)

POSSIBLE AMENDMENTS

Harkin. Regarding imported products manufactured with forced or indentured child labor.

Durbin. Amendments to antidumping and other trade relief measures.

DeWine. To amend the Trade Act of 1974 to provide for periodic revision of retaliation lists or other remedial action implemented under section 306 of such Act.

Conrad. TAA for farmers.

Feingold. Alternative version of SSA provisions.

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